

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

V.

NATHANIEL VIRESE MITCHELL (1)

AMENDED JUDGMENT IN A CRIMINAL
CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: 3:13-CR-03728-LAB

Jeremy D Warren

Defendant's Attorney

USM Number 45402-298

☒ Correction of Sentence for Clerial Mistake (Fed. R. Crim. P. 36) (condition correction)

THE DEFENDANT:

☒ pleaded guilty to count(s) One and two of the Superseding Information☐ was found guilty on count(s) _____
after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offense(s):

Title and Section / Nature of OffenseCount

18 USC 922(k) - Possession of a Firearm with Removed Serial Number

1

18:922(q)(2)(A) - Possession of a Firearm in a School Zone

2

The defendant is sentenced as provided in pages 2 through 5 of this judgment.
The sentence is imposed pursuant to the Sentencing Reform Act of 1984.☐ The defendant has been found not guilty on count(s) _____☒ Count(s) UNDERLYING are dismissed on the motion of the United States.☒ Assessment: \$100.00 PER COUNT, \$200.00 TOTAL☐ JVT Assessment*: \$

*Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

☒ No fine ☒ Forfeiture pursuant to order filed 2/5/2014, included herein.

IT IS ORDERED that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States Attorney of any material change in the defendant's economic circumstances.

January 27, 2014

Date of Imposition of Sentence

Larry A. Burns
HON. LARRY ALAN BURNS
CHIEF UNITED STATES DISTRICT JUDGE

AO 245B (CASD Rev. 1/19) Judgment in a Criminal Case

DEFENDANT: NATHANIEL VIRESE MITCHELL (1)
CASE NUMBER: 3:13-CR-03728-LAB

Judgment - Page 2 of 5

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:

Count 1: 60 months

Count 2: 40 months

ALL COUNTS TO RUN CONSECUTIVELY

- ☐ Sentence imposed pursuant to Title 8 USC Section 1326(b).
☒ The court makes the following recommendations to the Bureau of Prisons:
PLACEMENT IN VICTORVILLE, CA TO PARTICIPATE IN THE WELDING PROGRAM.

- ☐ The defendant is remanded to the custody of the United States Marshal.
☐ The defendant must surrender to the United States Marshal for this district:

☐ at _____ A.M. on _____

☐ as notified by the United States Marshal.

- ☐ The defendant must surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ on or before

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

3:13-CR-03728-LAB

AO 245B (CASD Rev. 1/19) Judgment in a Criminal Case

DEFENDANT: NATHANIEL VIRESE MITCHELL (1)
CASE NUMBER: 3:13-CR-03728-LAB

Judgment - Page 3 of 5

SUPERVISED RELEASE

Upon release from imprisonment, the defendant will be on supervised release for a term of:

3 YEARS, EACH COUNT CONCURRENT

MANDATORY CONDITIONS

1. The defendant must not commit another federal, state or local crime.
2. The defendant must not unlawfully possess a controlled substance.
3. The defendant must not illegally possess a controlled substance. The defendant must refrain from any unlawful use of a controlled substance. The defendant must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the court. Testing requirements will not exceed submission of more than 4 drug tests per month during the term of supervision, unless otherwise ordered by the court.
 - ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (check if applicable)
4. ☐ The defendant must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. (check if applicable)
5. ☒ The defendant must cooperate in the collection of DNA as directed by the probation officer. (check if applicable)
6. ☐ The defendant must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where the defendant resides, works, is a student, or was convicted of a qualifying offense. (check if applicable)
7. ☐ The defendant must participate in an approved program for domestic violence. (check if applicable)

The defendant must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

AO 245B (CASD Rev. 1/19) Judgment in a Criminal Case

DEFENDANT: NATHANIEL VIRESE MITCHELL (1)
CASE NUMBER: 3:13-CR-03728-LAB

Judgment - Page 4 of 5

STANDARD CONDITIONS OF SUPERVISION

As part of the defendant's supervised release, the defendant must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for the defendant's behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in the defendant's conduct and condition.

1. The defendant must report to the probation office in the federal judicial district where they are authorized to reside within 72 hours of their release from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, the defendant will receive instructions from the court or the probation officer about how and when the defendant must report to the probation officer, and the defendant must report to the probation officer as instructed.
3. The defendant must not knowingly leave the federal judicial district where the defendant is authorized to reside without first getting permission from the court or the probation officer.
4. The defendant must answer truthfully the questions asked by their probation officer.
5. The defendant must live at a place approved by the probation officer. If the defendant plans to change where they live or anything about their living arrangements (such as the people living with the defendant), the defendant must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, the defendant must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. The defendant must allow the probation officer to visit them at any time at their home or elsewhere, and the defendant must permit the probation officer to take any items prohibited by the conditions of their supervision that he or she observes in plain view.
7. The defendant must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses the defendant from doing so. If the defendant does not have full-time employment the defendant must try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the defendant works or anything about their work (such as their position or their job responsibilities), the defendant must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, the defendant must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. The defendant must not communicate or interact with someone they know is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, they must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If the defendant is arrested or questioned by a law enforcement officer, the defendant must notify the probation officer within 72 hours.
10. The defendant must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. The defendant must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines the defendant poses a risk to another person (including an organization), the probation officer may require the defendant to notify the person about the risk and the defendant must comply with that instruction. The probation officer may contact the person and confirm that the defendant notified the person about the risk.
13. The defendant must follow the instructions of the probation officer related to the conditions of supervision.

AO 245B (CASD Rev. 1/19) Judgment in a Criminal Case

DEFENDANT: NATHANIEL VIRESE MITCHELL (1)
CASE NUMBER: 3:13-CR-03728-LAB

Judgment - Page 5 of 5

SPECIAL CONDITIONS OF SUPERVISION

1. Report all vehicles owned or operated, or in which you have an interest, to the probation officer.
2. Participate in a program of drug or alcohol abuse treatment, including drug testing and counseling, as directed by the probation officer. Allow for reciprocal release of information between the probation officer and the treatment provider. May be required to contribute to the costs of services rendered in an amount to be determined by the probation officer, based on ability to pay. The defendant shall be tested three times a month for one year. The probation officer may modify testing after one year if no dirty tests are reported.
3. Seek and maintain full time employment and/or schooling or a combination of both.
4. No alcohol.
5. Reside in a Residential Reentry Center (RRC) as directed by the probation officer for a period up to 180 days.
6. Submit to a search of person, property, house, residence, office, vehicle, papers, cellular phone, computer or other electronic communication or data storage devices or media effects, conducted by a United States Probation Officer or any federal, state, or local law enforcement officer, at any time with or without a warrant, and with or without reasonable suspicion. Failure to submit to such a search may be grounds for revocation; you shall warn any other residents that the premises may be subject to searches pursuant to this condition.

//

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 NATHANIEL VIRESE MITCHELL,

14 Defendant.

Case No. 13cr3728-LAB

PRELIMINARY ORDER OF
CRIMINAL FORFEITURE

15
16 WHEREAS, in the Plea Agreement and Forfeiture Addendum in the above-
17 captioned case, the United States sought forfeiture of all right, title and interest in
18 specific properties of the above-named Defendant, NATHANIEL VIRESE
19 MITCHELL ("Defendant"), pursuant to Title 18, United States Code, Section
20 924(d)(1) and Title 28, United States Code, Section 2461(c), as properties involved in
21 the commission of the offenses to which Defendant pled guilty; and

22 WHEREAS, on or about November 7, 2013, Defendant pled guilty before
23 Magistrate Judge Karen S. Crawford to the two-count Superseding Information,
24 which plea included consents to the forfeiture of the following:

25 One Cobra Enterprises Model CB 38 .38 caliber handgun
26 and two rounds of ammunition; and

27 WHEREAS, on January 22, 2014 this Court accepted the guilty plea of
28 Defendant; and

1 WHEREAS, by virtue of the facts set forth in the plea agreement and forfeiture
2 addendum, the United States has established the requisite nexus between the forfeited
3 properties and the offense; and

4 WHEREAS, by virtue of said guilty plea, the United States is now entitled to
5 possession of the above-referenced properties, pursuant to 18 U.S.C. § 924(d)(1),
6 28 U.S.C. § 2461(c) and Rule 32.2(b), Federal Rules of Criminal Procedure; and

7 WHEREAS, pursuant to Rule 32.2(b), the United States having requested the
8 authority to take custody of the above-referenced properties which were found
9 forfeitable by the Court; and

10 WHEREAS, the United States, having submitted the Order herein to the
11 Defendant through his attorney of record, to review, and no objections having been
12 received;

13 Accordingly, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

14 1. Based upon the guilty plea of the Defendant, the United States is hereby
15 authorized to take custody and control of the following assets, and all right, title and
16 interest of Defendant NATHANIEL VIRESE MITCHELL in the following
17 properties are hereby forfeited to the United States for disposition in accordance with
18 the law, subject to the provisions of 18 U.S.C. § 924(d)(1), 28 U.S.C. § 2461(c), and
19 21 U.S.C. § 853(n):

20 One Cobra Enterprises Model CB 38 .38 caliber handgun
21 and two rounds of ammunition; and

22 2. The aforementioned forfeited assets are to be held by the United States
23 Marshals Service in its secure custody and control.

24 3. Pursuant to Rule 32.2(b) and (c), the United States is hereby authorized
25 to begin proceedings consistent with any statutory requirements pertaining to
26 ancillary hearings and rights of third parties.

27 4. Pursuant to the Attorney General's authority under Section 853(n)(1) of
28 Title 21, United States Code, Rule 32.2(b)(3), Fed. R. Crim. P., and Rule G(4) of the

1 Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions,
2 the United States forthwith shall publish for thirty (30) consecutive days on the
3 Government's forfeiture website, www.forfeiture.gov, notice of this Order, notice of
4 the United States' intent to dispose of the properties in such manner as the Attorney
5 General may direct, and notice that any person, other than the Defendant, having or
6 claiming a legal interest in the above-listed forfeited properties must file a petition
7 with the Court within thirty (30) days of the final publication of notice or of receipt of
8 actual notice, whichever is earlier.

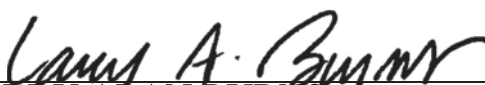
9 5. This notice shall state that the petition shall be for a hearing to
10 adjudicate the validity of the petitioner's alleged interest in the property, shall be
11 signed by the petitioner under penalty of perjury, and shall set forth the nature and
12 extent of the petitioner's right, title or interest in the forfeited property and any
13 additional facts supporting the petitioner's claim and the relief sought.

14 6. The United States may also, to the extent practicable, provide direct
15 written notice to any person known to have alleged an interest in the properties that
16 are the subject of the Preliminary Order of Criminal Forfeiture, as a substitute for
17 published notice as to those persons so notified.

18 7. Upon adjudication of all third-party interests, this Court will enter an
19 Amended Order of Forfeiture pursuant to 21 U.S.C. § 853(n) as to the
20 aforementioned assets, in which all interests will be addressed.

21 8. Pursuant to Rule 32.2(b)(3), this Order of Forfeiture shall be made final
22 as to the Defendant at the time of sentencing and is part of the sentence and included
23 in the judgment.

24 DATED: February 3, 2014

25
26 
27 LARRY ALAN BURNS
28 United States District Judge